DOCUMENT RESUME

ED 443 219 EC 307 912

TITLE	A Parent Guide to Section 504 of the Rehabilitation Act of 1973.
INSTITUTION	North Dakota State Dept. of Public Instruction, Bismarck. Div. of Special Education.
PUB DATE	1999-11-00
NOTE	17p.
AVAILABLE FROM	North Dakota Dept. of Public Instruction, Office of Special Education, 600 East Boulevard Ave., Dept 201, Bismarck, ND 58505-4149; Tel: 701-328-2277 (Voice); Tel: 701-328-4920 (TDD); Fax: 701-328-4149.
PUB TYPE	Guides - Non-Classroom (055)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	Civil Rights; *Disabilities; Disability Identification; *Educational Legislation; Elementary Secondary Education; *Eligibility; *Federal Legislation; Parent Responsibility; Preschool Education; School Responsibility; Staff Role; *Student Placement; Student Responsibility; *Student Rights
IDENTIFIERS	*Rehabilitation Act 1973 (Section 504)

ABSTRACT

This pamphlet provides parents of children with disabilities with information on Section 504 of the Rehabilitation Act of 1973 with respect to preschool, elementary, and secondary school policies involving placement of children with physical and mental disabilities. Topics covered include: (1) the history of the legislation; (2) the definitions of "appropriate education" and "disability"; (3) the differences between special education and Section 504; (4) how students with disabilities are identified; (5) eligibility; (6) services; (7) making accommodations; (8) school responsibilities under Section 504; (9) parent responsibilities; (10) student responsibilities; (11) role of the Section 504 coordinator; (12) roles and responsibilities of the U.S. Department of Education and the Office for Civil Rights; (13) the complaint process; and (14) rights granted under Section 504 to students with disabilities. (CR)

Reproductions supplied by EDRS are the best that can be made
from the original document.

ED 443 219

North Dakota Department of Public Instruction

A Parent Guide to SECTION 504 OF THE REHABILITATION ACT OF 1973

U.S. DEPARTMENT OF EDUCATION
NATIONAL INSTITUTE OF EDUCATION
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official NIE position or policy.

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL HAS BEEN GRANTED BY

Kolberg

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

November 1999

LL 3U 1910

BEST COPY AVAILABLE

This document was developed in collaboration between the North Dakota Department of Education, Mountain Plains Regional Resource Center, and Pathfinder Parent Center in Minot.

A Parent Guide to Section 504 is a pamphlet which provides information and describes the requirements of Section 504 of the Rehabilitation Act of 1973 with respect to preschool, elementary and secondary school policies involving placement of children with physical and mental disabilities.

This pamphlet is designed specifically to give parents understanding by providing information to help them access services for eligible Section 504 students.

The North Dakota Department of Public Instruction has developed Section 504 Guidelines for Educators that explains how a student might be eligible for Section 504 services. A copy of these guidelines is available by calling the North Dakota Department of Public Instruction. (701) 328-2488, or (701) 328-2389, or (701) 328-2277.

What is Section 504?

Section 504 is the part of the Rehabilitation Act of 1973 which applies to persons with disabilities. Section 504 is a civil rights act which protects the civil and constitutional rights of persons with disabilities.

> It states that no person with a disability can be excluded from or denied benefits of any program receiving federal financial assistance.

Section 504 and special education are two separate services. All school districts should have a Section 504 Coordinator to answer your questions about Section 504.

Historical Background

Section 504 of the Rehabilitation Act of 1973 was passed by congress in 1973. Regulations implementing the statute became effective in 1977. For many years school districts perceived its main obligation as ensuring physical access to public buildings (i.e., ramps were installed, curbs were cut, elevators were added to multi-level buildings, rest room stalls were enlarged, etc.). Schools were at the same time committed to compliance with special education regulations now referred to as the Individuals with Disabilities Education Act - (IDEA).

With passage of the Rehabilitation Act of 1973, Congress required that school districts make their programs and activities accessible and usable to all individuals with disabilities.

Within the last several years, the Office for Civil Rights (OCR) has become active in assisting school districts in further defining "access." The definition of access means more than physical access; a student may require special accommodations such as modified assignments in order to benefit from their education.

How does Section 504 define "appropriate education"?

A free appropriate education is one provided by the public elementary or secondary school which includes general or special education and related aids and services that (1) are designed to meet the individual educational needs of a person with a disability as adequately as the needs of a non-disabled person are met, and (2) are based upon adherence to evaluation, placement, and procedural safeguard requirements.

How does Section 504 define "disability"?

Section 504 of the Rehabilitation Act of 1973 protects persons from discrimination based upon their disability status. A person is disabled within the definition of Section 504 if he or she:

- has a mental or physical impairment which substantially limits one or more of a person's major life activities;

  "Major life activities" include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. When a condition does not substantially limit a major life activity, the individual does not qualify under Section 504.

In order to determine eligibility for Section 504 services, your child must be evaluated by a team of individuals who are familiar with your child. The results will be shared at a team meeting in which you are involved.

WHAT ARE SOME DIFFERENCES BETWEEN SPECIAL EDUCATION AND SECTION 504?

	Section 504	Special Education (IDEA)
Type	A Civil Rights Act	An education Act
Funding	Local funding	State-federal-local funding
Administration	Section 504 Coordinator	Special Education Director
Service Tool	Accommodations	Individualized Education Program
Disabilities	All disabilities if eligible	13 federal disabilities
Parents	Should be involved in all team meetings	Should be involved in all team meetings
Procedural Safeguards	Notice of consent of parents is required	Parent consent and notice required for initial evaluation and reevaluation & placement
Evaluation and Eligibility	An evaluation is necessary before it can be determined if a child is eligible for Section 504 services.	An evaluation is necessary before it can be determined if a child is eligible for special education.

How are students with disabilities identified?

Section 504 regulations cover a wider range of students with disabilities. The definition of disability under Section 504 includes students who have a physical or mental disability which substantially limits one or more of life's major activities.

For example, school staff should consider the potential existence of disabilities and possible Section 504 protection for students diagnosed as having asthma, HIV, Tourette's syndrome, attention deficit hyperactive disorder (ADHD), heart malfunctions, communicable diseases, urinary conditions, blood disorders, chronic fatigue syndrome, school phobia, respiratory conditions, blood/sugar disorders, post traumatic disorders, (with health issues that affect ability to learn), epilepsy, cancer, repetitive motion syndrome, birth defects, tuberculosis, etc.

Does Section 504 require evaluations?

Section 504 requires that a school evaluate "any person who, because of a disability, needs or is believed to need special education or related services." An evaluation is also required prior to any significant change in placement. Most evaluations under Section 504 only involve gathering testing that has already been conducted, such as medical records. The evaluation data should be reviewed to determine if it is current or needs to be updated.

Eligibility

If the school or parent has reason to believe that, because of a disability as defined under Section 504, a student needs general or special education or related aids and services in order to participate in the school program, the school must evaluate the student. If it is determined that a student is disabled under Section 504, the school must develop and implement the delivery of all needed services or accommodations.

Services

The determination of what services or accommodations are needed must be made by a group of persons knowledgeable about the student. This usually involves the school principal, classroom teacher(s) and other educators working with your child. *The parent and student must be included in the process whenever possible.* The group must review the nature of the disability and how it affects the student's education. The decisions about Section 504 eligibility and services must be documented in the student's file and reviewed periodically.

An appropriate education for students eligible under Section 504 may consist of education in general classes with accommodations and programs designed to meet the unique needs of a particular student.

Modifications in academic requirements and expectations may be necessary to accommodate the needs of an individual student with disabilities to enable participation in the general education program.

It is important to keep in mind that some students who have physical or mental conditions that limit their ability to access and participate in the education program are entitled to rights under Section 504, even though they may not fall into a disabilities category covered under IDEA or special education.

What does making accommodations mean?

Accommodations are adjustments made by the classroom teacher(s) and other school staff to help students benefit from the local educational program. In some cases a plan should be developed outlining services and accommodations.

Examples of Common Accommodations

- Modify assignments and tests.
- Provide an extra set of textbooks for home.

- Adjust student seating.
- Use study guides, organizing tools.
- Provide a peer tutor/helper.
- Counseling.
- Have the student use an organizer—train in organizational skills.
- Preferential seating.
- Modify recess/PE/transportation.

Accommodations need to take into account both the functional limitations of the individual and the alternative methods of performing tasks or activities to participate without jeopardizing outcomes.

- Accommodations must be individualized.
- The individual needs of the student with a disability should be met to the same extent as the needs of students without disabilities.
- Accommodations should place the student with a disability at an equal starting level with the non-disabled student.

The following is an example of a student who is eligible for Section 504 services and possible accommodations provided by the school.

A student has been diagnosed as having asthma. The doctor has advised the student not to participate in physical activity outdoors. The disability limits the major life function of breathing. The school is required to make reasonable accommodations in the education program.

Possible Accommodations:

- Modified activity level for recess, adaptive physical education, etc.
- Use of air purifier or inhalants.
- Avoidance of allergens.

- Inhalant therapy assistance.
- Medication administration.
- Policy adjustment for personal administration of medications.
- Access to water, gum, etc.
- Curriculum considerations (science class, PE, etc.)
- Time of year—Bus transportation in winter.
- Develop health care and emergency plan.

The school should develop a written plan describing placement and services. Service decisions must be based upon evaluation information and student needs. The decisions must be made by a group of persons knowledgeable about the child, about the meaning of the evaluation data and about service options.

What are the school district responsibilities under Section 504?

There has been much confusion over the years regarding the relationship between Section 504, IDEA, and regulations. It must be emphasized that Section 504 falls under the *management responsibility of the general education program.* Special and general education staff should work together to ensure the civil rights of children with disabilities are not violated. The school staff and parents need to work in collaboration to help guarantee that the student is provided with the necessary accommodations.

To be in compliance with Section 504, schools must:

1. Provide written assurance of nondiscrimination.
2. Designate a 504 Coordinator.
3. Provide grievance procedures to resolve complaints.
4. Provide notice of nondiscrimination in admission or access to its programs or activities. Notice must be included in a student/parent handbook.

5. Annually identify and locate all qualified children with disabilities who are not receiving a public education.

6. Annually notify persons with disabilities and their parents or guardians of the district's responsibilities under Section 504.

7. Provide parents or guardians with procedural safeguards.

8. Conduct a self-evaluation of school district policies, programs, and practices to make sure discrimination is not occurring.

9. Provide Free Appropriate Public Education (FAPE) and accessible services or facilities.

What are the responsibilities of parents?

1. Share your concerns with the school early before problems become big.

2. Become involved in Section 504 meetings concerning their child.

3. Assist in developing appropriate accommodations and/or services for their child.

4. Encourage your child to cooperate with school staff and do their best.

5. When appropriate, collaborate with other agencies such as vocational rehabilitation.

6. Use mediation as an option if a difference cannot be resolved with the school.

What are the responsibilities of students?

1. When appropriate, be involved at Section 504 meetings.

2. Before graduating from high school, be familiar with their rights at post secondary programs.

3. Cooperate and put forth maximum effort at school.

What is the role of the Section 504 Coordinator?

The role of the Section 504 Coordinator is to assist the school in meeting requirements under Section 504 of the Rehabilitation Act of 1973.

The Coordinator will provide resources and help educators and administrators regarding their responsibilities under Section 504. In addition, the Coordinator will assist in creating an on-going program that will support problem-solving teams in accommodating students' needs. *If you have questions regarding Section 504, call the school Section 504 Coordinator.*

What are the roles and responsibilities of the Department of Education and the Office for Civil Rights?

The U.S. Department of Education is the agency of the U.S. Government that administers federal funds for education programs, conducts and disseminates education research, focuses national attention on issues and problems in education, enforces federal statutes prohibiting discrimination in any activities receiving federal funds, and ensures equal access to education for every individual.

The U.S. Department of Education maintains Regional Civil Rights Offices to enforce Section 504 and other civil rights laws. All parents have the right to directly contact the Office for Civil Rights in Kansas City, Missouri, if they believe their child is being discriminated against based upon their disability. Most differences with schools can be resolved before contacting the Office for Civil Rights. It is suggested you follow the procedures outlined below:

1. First try to resolve your differences at the teacher or school level. Set up a meeting to discuss your differences.
2. If unsuccessful, set up a meeting with the school district's Section 504 Coordinator.

3. If unsuccessful, call the Pathfinder Services of Minot for guidance. 852-9426 or 1-800-245-5840.

4. If unsuccessful, ask for mediation. This is a free service for parents. A neutral individual will work with you and the school to help resolve your differences.

5. If unsuccessful, ask the Section 504 Coordinator how to file a grievance

6. In addition to the normal grievance procedure required by Section 504/ADA, Title IX, and Title VI, the U.S. Department of Education has an administrative rule for regulating due process hearings under Section 504.

   The impartial due process hearing is to resolve differences involving the education of Section 504/ADA qualified students with disabilities when such differences cannot be solved by means of a less formal procedure.

   Due process is defined here as an opportunity to present objections and reasons for the objections to the decisions and/or procedures used by the school under Section 504/ADA.

7. If unsuccessful, call the Office for Civil Rights in Kansas City, Missouri to express your concerns. Phone 816-880-4200, TTY 816-891-0582.

Office for Civil Rights Complaint Process

Sometimes, even when we do our best, we cannot come to agreement. Every effort must be used to resolve the difference at the local level, including requesting free mediation services. If all else fails, you have the right to file a complaint with the Office for Civil Rights.

An individual person or an organization may file a complaint with the Office for Civil Rights (OCR) of the U.S. Department

of Education. An OCR complaint must be filed, in writing, within 180 days after the violation has occurred.

Anyone wishing to file a formal complaint with OCR should submit in writing the following information in a letter or on the Discrimination Complaint Form available from OCR regional offices.

- Your name and address (a telephone number where you may be reached during business hours is helpful, but not required);
- A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required);
- The name and location of the institute that committed the alleged discriminatory act(s); and
- A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, color, national origin, sex, disability, or age).

A recipient may not retaliate against any person who has made a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under the four statutes listed above.

SECTION 504
PARENT/STUDENT RIGHTS
IN IDENTIFICATION, EVALUATION, ELIGIBILITY, AND SERVICES

The following is a description of the rights granted under Section 504 to students with disabilities. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

You have the right to:

1. Have your child take part in, and receive benefits from public education programs without discrimination because of disability;

2. Have the school district advise you of your rights under federal law;

3. Receive notice with respect to identification, evaluation, or services for your child;

4. Have your child receive a free appropriate public education. This includes the right to be educated with students without disabilities to the maximum extent appropriate. It also includes the right to have the school district make accommodations to allow your child an equal opportunity to participate in school and school-related activities;

5. Have your child educated in facilities and receive services comparable to those provided to students without disabilities;

6. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and

by persons who know the student, the evaluation data, and service options;

7. Have your child receive special education and related services if found to be eligible under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act;

8. Have transportation provided to and from an alternative placement setting at no greater cost to you than would be incurred if the student was placed in a program operated by the district;

9. Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district;

10. Examine all relevant records relating to decisions regarding your child's identification, evaluation, and educational services;

11. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records;

12. A response from the school district to reasonable requests for explanations and interpretations of your child's records;

13. Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If the school district refuses this request for amendment, it shall notify you within a reasonable time and advise you of the right to a hearing;

14. File a 504 grievance if you have a disagreement with the school;

15. Request mediation or an impartial due process hearing related to decisions or actions regarding your child's identification, evaluation, educational program or services. You and the student may take part in the hearing and have an attorney represent you;

16. File a complaint with the Office for Civil Rights. The regional office is located at PO Box 901381, 10220 No. Executive Hills Blvd. 8th Floor, Kansas City, Missouri, 64153-1367. Phone 816-880-4200, TTY 816-891-0582.

17. Obtain more information about Section 504 by writing to:

    Pathfinder Services of ND Inc.
    Parent Training & Information Center
    16th & 2nd Ave. SW
    Arrowhead Shopping Center
    Minot, ND 58701

    Or call:

    852-9426 or 1-800-245-5840

The person in the school who is responsible for assuring compliance with Section 504 is:

_____

Telephone number _____